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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,641	09/26/2003	Rami Caspi	2003P08214US	8212

7590 12/31/2009
Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

PEREZ, JULIO R

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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12/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,641	Applicant(s) CASPI ET AL.	
	Examiner JULIO PEREZ	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/05/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-15 and 17-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15 and 17-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/26/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 10/26/2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. U.S. 7,546,127 has been reviewed **and is NOT accepted**.

The person who signed the terminal disclaimer **is not recognized as an officer of the assignee**, and **he/she has not been established** as being authorized to act on behalf of the assignee. See MPEP § 324.

2. An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-10, 12-15, 17-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. US7, 546,127. Although the conflicting claims are not identical, they are not patentably distinct from each other because independent claim 1 US7, 546,127 encompasses the claimed limitations as recited in claim 1 of current patent application.

Claim 1 of instant U.S. patent application	Claim 1 of US Patent No. US7,546,127
1. A telecommunications system, comprising: a plurality of network clients including a positioning controller and a communications controller; and a positioning server including a coordinating controller for maintaining a database of network clients to be tracked and provide updates of position-related information of a user to a presence server, the presence server defining one or more associated location/presence correlation pairs defining a geographical area including a user- defined boundary around one or more locations and corresponding presence status; wherein a presence status of the user is maintained if the network client is within	1. A telecommunications system, comprising: a plurality of network clients including a positioning controller and a communications controller; and a positioning server including a coordinating controller for maintaining a database of network clients to be tracked, said database further including position-presence correlation information related to party availability for individual users; wherein said positioning server is adapted to receive position information from said plurality of network clients via a toll-free telephony interface and distribute presence information related to said position information formatted into one or more e-mail messages to one or more network enterprise

<p>the borders of the geographical area; and a mapping engine for defining the geographical area; wherein said plurality of network clients are configured to transmit position information received via said positioning controller to said positioning server via said communications controller, said communications controller comprising a telephony controller; wherein the location/presence correlation pairs further include availability status indicia over a plurality of media associated with the user; and a first timer for providing a timer tick for confirming functionality and a second timer for providing one or more hysteresis indications to prevent speed and boundary toggling.</p>	<p>devices; wherein the plurality of network clients are configured to maintain a set of boundary perimeter rules and communicate a change via said toll-free telephony interface when a corresponding one of the plurality of network clients crosses the boundary perimeter; wherein a watchdog timer is maintained for confirmation the plurality of network clients are available; wherein the system checks for a new presence rule responsive to detection that one of the plurality of network clients is not available; and wherein a hysteresis timer is maintained upon detection of loss of a positioning signal or a boundary perimeter crossing to prevent toggling of a presence update.</p>
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As to claim 2, this limitation mirrors that in claim 2 of Patent No. US7, 546,127 Patent No. US7, 546,127.

As to claim 3 this limitation mirrors that in claim 3 of Patent No. US7, 546,127 Patent No. US7, 546,127.

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As to claim 4, this limitation mirrors that in claim 19 of Patent No. US7, 546,127 Patent No. US7, 546,127.

As to claim 10, this limitation mirrors that in claim 15 of Patent No. US7, 546,127 Patent No. US7, 546,127.

As to claims 7/8, this limitation mirrors that in claim 16 of Patent No. US7, 546,127 Patent No. US7, 546,127.

As to claim 13, this limitation mirrors that in claim 18 of Patent No. US7, 546,127 Patent No. US7, 546,127.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/23/2009

/J. P./
Examiner, Art Unit 2617

/Patrick N. Edouard/

Supervisory Patent Examiner, Art Unit 2617